

AFFORDABLE HOUSING IMPACT FEE WAIVER, DEFERRAL PROCEDURES

Bernalillo County Zoning, Building and Planning
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The Bernalillo County Board of Commissioners recognize the need to support affordable housing. Bernalillo County Code Chapter 46, Impact Fees requires payment of impact fees for any new development. These administrative procedures are established to process a request for deferral of Impact Fees based on a project meeting the Affordable Housing criteria.

1. Impact Fees are assessed on all homes placed on vacant land. Fees are collected with a building permit for construction of a new home, or a zoning permit for placement of a mobile home or manufactured home.
2. The project must meet the definition of affordable housing to qualify for a deferral, per Bernalillo County Code, Section 46-2. Affordable Housing is defined as any housing unit that will be sold for less than one hundred thousand dollars (\$100,000). (See Item 7.)

The value of a dwelling unit will be determined by adding the assessed value, market value, or current selling price of the land (legal tract of record), and the value of the dwelling unit, based on a purchase contract or building permit construction valuation.

3. The applicant proposing to construct or place a dwelling unit, mobile home or manufactured home may make application for an affordable housing deferral by submitting an Application for Impact Fee Waiver available from the Bernalillo County Zoning, Building and Planning Department.
4. An Application for Impact Fee Deferral must be filed and approved prior to issuance of a building permit. The deferral of impact fees for a mobile home or manufactured home must be approved prior to the issuance of a Certificate of Occupancy.

The Impact Fee Administrator shall record a mortgage lien in favor of Bernalillo County in the Bernalillo County Clerks Office for the amount of the Impact Fees deferred. This lien shall become due and payable to the County when the dwelling unit is sold for more than \$100,000 or no longer meets the affordable housing criteria established by the Impact Fees Ordinance. The lien shall be signed by the property owners, and submitted to the Impact Fee Administrator prior to issuance of the Building Permit or mobile/manufactured home Certificate of Occupancy.

6. The applicant shall have the burden of claiming and proving that a development project qualifies for a deferral. The Impact Fee Administrator shall grant or deny the deferral prior to the issuance of a building permit. The deferral of impact fees for a mobile home or manufactured home must be approved prior to the issuance of a Certificate of Occupancy. The Impact Fee Administrator shall grant or deny the deferral in writing within 30 days of receiving the application.

7. The applicant must provide proof of the value of the land and structure. The applicant shall submit the following:
 - a. A copy of the most recent "Notice of Value", from the Bernalillo County Assessors Office. The amount of "Full Land Value" and "Full Improved Value" will be used.
 - b. The "Building Valuation", as determined by the Building Official, will be added to the "Full Land Value" for dwelling units to be constructed.
 - c. In lieu of using the property tax assessment and building valuation, an appraisal no more than one year old prepared by a State of New Mexico Certified Appraiser may be submitted.
 - d. A Notice of Value, purchase contract, or other documentation approved by the Impact Fee Administrator, may be submitted to prove the current market value of a mobile or manufactured home.
8. The County shall utilize funds to offset the impact fees revenue lost as a result of deferrals granted for affordable housing. Deferrals may be denied if funds are not available for this purpose.
9. Fire/EMS Impact Fees are not deferrable per Bernalillo County Code Impact Fees Section 46-17.
10. Within a subdivision, no more than 40 percent of the units in any phase of any development project may qualify for the deferral.
11. The applicant may appeal the decision of the Impact Fee Administrator within 30 days following the date of the decision by submitting an application for NOTICE FOR APPEAL to the Bernalillo County Board of Adjustment. The application is available at the Bernalillo County Zoning, Building and Planning Department. The application shall include a non-refundable processing fee of \$75.00 for properties less than 1 acre, and \$100 for all other appeals, as per the Zoning Ordinance fee schedule.
12. The appeal will be heard by the Board of Adjustment. The decision by the Board of Adjustment may be further appealed to the Bernalillo County Board of County Commissioners, by filing a Notice of Appeal to the County Commission, in the County Zoning, Building and Planning Department with the appropriate filing fee as referenced in item 10.
13. The decision of the Board of County Commissioners will be the final administrative decision. A copy of the decision shall be transmitted to the applicant and the Impact Fee Administrator. The decision of the Board of County Commissioners shall be subject to judicial review in accordance with applicable law.